

REMARKS

Preliminarily, Applicants respectfully request the Examiner to withdraw the finality of the Office Action of April 1, 2009 and to enter the claim amendments presented herein. In the Amendment Under 37 C.F.R. § 1.114(c) filed January 14, 2009, claim 1 was amended to recite that the preform is formed by compression-forming a molten resin mass. The subject amendment to claim 1 limited the preform to those formed by compression-forming a molten resin mass, such that the amended claims were drawn to a different invention as claimed prior to entry of the submission under 37 C.F.R. § 1.114(c). Applicants further noted that in Yamada et al, the preform is formed by a method which comprises re-heating both ends of a pipe, and compressing both end portions only to form the mouth portion and the bottom portion different from the claimed method where the preform is formed by compression-forming a molten resin mass. Due to the above-noted distinct difference in processing methods, Applicants noted that the preform of the invention has crystallizing characteristics different from those of the preform of Yamada et al.

Although the Examiner disagreed with Applicants' position, and even though the Examiner still relies on Yamada et al, the grounds for rejection have changed. Specifically, according to the Examiner, "Applicant has not provided evidence that shows that Applicant's process of forming Applicant's product results in distinctive structure characteristics when the final product is prepared to the preform of Yamada et al."

Therefore, Applicants respectfully request Examiner to withdraw finality of the last Office Action.

Claim 1 has been amended to incorporate therein the recitations of claims 4, 5 and 9, and to positively recite that the body portion and the bottom portion of the preform have a continuous

multi-layer structure. Claims 4, 5 and 9 have been canceled. Method claim 6 has been amended to include all of the limitations of amended product claim 1. If product claim 1 is found to be patentable, Applicants respectfully request rejoinder of the withdrawn method claims pursuant to MPEP § 821.04.

Review and reconsideration on the merits are requested.

Claims 1-5 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 4,528,219 to Yamada et al. According to the Examiner, the claim language does not preclude a “discontinuous” multi-layer structure from the scope of the claim.

Amended claim 1, however, makes clear that the multi-layer structure also continues in the bottom portion thereof.

That is, in the present claims as amended and as described at page 13, line 13-page 14, line 18 of the specification, a molten resin mass in which a resin constituting the intermediate layer is sealed by a resin constituting the inner and outer layers is compression-formed to form a preform having the intermediate layer sealed therein by the inner layer and the outer layer. Namely, in the preform of the present invention, the multi-layer structure is continuously formed from the body portion through the bottom portion.

On the other hand, according to the production method disclosed by Yamada et al, both ends of a pipe of a multi-layer structure are re-heated, and both end portions are shaped into a mouth portion and a bottom portion by compression. In particular, the bottom portion is shaped by crushing the open pipe and adhering it. In the preform of a multi-layer structure disclosed by Yamada et al, therefore, it is clear that the multi-layer structure of the shape of the pipe does not continue in the bottom portion. Thus, the preform of Yamada et al has a structure distinctly different from the preform of the present invention, at least in the bottom portion thereof.

In summary, the present claims have been amended to structurally distinguish over the preform of Yamada et al in which a multi-layer structure does not continue in the bottom portion thereof. Thus, because Yamada et al does not meet one or more structural features of the claimed invention, it is respectfully submitted that the amended claims are not anticipated by Yamada et al, and withdrawal of the foregoing rejection under 35 U.S.C. § 102(b) is respectfully requested. Moreover, due to the above-noted distinct difference in processing methods, one of ordinary skill could not readily arrive at the preform of the present invention based on the disclosure of Yamada et al. For this additional reason, the amended claims are also patentable over the cited prior art.

Withdrawal of all rejections, rejoinder of method claims 6-8 and allowance of claims 1-3 and 6-8 is earnestly solicited.

In the event that the Examiner believes that it may be helpful to advance the prosecution of this application, the Examiner is invited to contact the undersigned at the local Washington, D.C. telephone number indicated below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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